

REMARKS

As explained above, Applicants have proposed changing Figure 4 to correct duplicate use of a reference number. The text of the specification has been amended to conform to the proposed drawing change. Applicants believe that these amendments to the drawings and to the specification text add no new matter. Beginning at page 7, Applicants have provided a marked up copy of the specification amendments.

Applicants and Applicants' attorney express appreciation to the Examiner for the courtesies extended during the Interview conducted on October 18, 2002. These remarks are consistent with the arguments presented during the Interview, however, Applicants have determined not to submit any of the clarifying amendments proposed during the Interview because, as described in more detail below, those clarifying amendments are not necessary to distinguish over the art of record. Claims 1-26 are pending in the present application.

The Office Action rejected each of the independent claims (claims 1, 11, 19, 20, 21, and 26) under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,400,407 to Zigmond, et al. ("*Zigmond*"). The *Office Action* rejected the remaining dependent claims as either anticipated by *Zigmond*, or as obvious under 35 U.S.C. § 103(a) over *Zigmond*, in view of U.S. Patent No. 6,021,426 to Dougkis ("*Dougkis*"). As a preliminary matter, Applicants reserve the right at such time as necessary and/or appropriate, to seek removal of *Zigmond* and/or *Dougkis*. Furthermore, Applicants do not necessarily concede the accuracy of the Examiner's assertions with respect to the teachings of *Zigmond* and *Dougkis*. This response, therefore, should not be deemed as an acquiescence of the prior art status or teachings of *Zigmond* and *Dougkis*, as asserted in the Office Action.

With respect to anticipation under 35 U.S.C. §§ 102(a), (b), and (e), the MANUAL OF PATENT EXAMINING PROCEDURE ("*MPEP*") explains that

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required

by the claim, but this is not an *ipsissimis verbis* test, i.e., identify of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

MPEP § 2131 (8th ed. 2001). Applicants respectfully submit that even if *Zigmond* is presumed to be prior art for purposes of this response, *Zigmond* fails to teach each and every element of Applicants' invention in as complete detail as is contained in pending independent claims 1, 11, 19, 20, 21, and 26, and therefore fails to anticipate these claims.

In particular, *Zigmond* teaches two modes for associating Internet content with a television broadcast: real-time mode and batch mode. Col. 6, ll. 43-45. "Real-time logical address links are sent to the TV viewer's client system during a television broadcast," whereas "batch mode logical address links are delivered to the client system in advance of the television broadcast to which they relate." Col. 6, ll. 45-49. One or more optional attribute/value pairs and a checksum may follow a logical address. Col. 7, l. 5 – col. 8, l. 34. Among various other logical address links, *Zigmond* gives "<http://www.tvprogram.com>[type:program][name:TV Program][C8C5]" as an example. Col. 8, ll. 1-2.

"Because batch mode logical address links are known in advance, the client system may pre-fetch the resources associated with the logical address links and cache them for quicker retrieval. However, batch mode logical address links are limited in that they may be outdated by the time a program is aired." Col. 9, ll. 38-41. "Since real-time logical address links do not need to be scheduled as far in advance as batch mode logical address link[s], real-time logical address links may be more appropriate for certain content." Col. 9, ll. 53-56. "By providing access to both real-time logical address links and batch mode logical address links, the advantages of both can be enjoyed." Col. 9, ll. 36-38.

At a client, merging logic (described in detail with respect to Figure 7) determines which type or types of logical address links are presented to a user. Col. 10, ll. 24-29. The merging logic "may choose to present to the user both logical address links, only the real-time logical address link, or only the batch mode logical address link." Col. 11, ll. 1-4. For example, a value associated with a priority attribute may indicate that a real-time address link (i) defers to a batch mode link, if one exists, (ii) overrides any

existing batch mode links, or (iii) may coexist with a batch mode logical address link. Col. 11, ll. 16-25.

In rejecting independent claims 1, 11, 19, 20, 21, and 26, the Office Action asserts that *Zigmond's* attribute/value pairs disclose a script since *Zigmond's* attribute/value pairs may be used "to decide whether or not to merge [a] batch mode and real-time link, eg [sic], by using the 'priority' attribute/value, as described in column 11, lines 16-25." Office Action at 3. The Office Action continues this line of reasoning by stating that the priority attribute/value pair updates an information resource "since it contains the values that indicate whether an update is to be performed or not." *Id.*

As discussed above, however, for *Zigmond* to anticipate a claim, *Zigmond* must show the identical invention in as complete detail as is contained in the claims. Accordingly, Applicants respectfully submit that the Examiner's reasoning is flawed because, among other things, *Zigmond's* attribute/value pairs merely represent static data that is not executable, and therefore not identical to a script. The Office Action itself recognizes this lack of identity by stating that *Zigmond's* attribute/value pairs "will be used later on to decide whether or not to merge the batch mode and real-time link" since the attribute/value pairs "contain[] the values that indicate whether an update is to be performed or not." Office Action at 3 (emphasis added).

In contrast to *Zigmond*, Applicants' invention, as claimed in independent claims 1, 11, 19, 20, 21, and 26, explicitly requires a script. The specification consistently describes a script as being executable and capable of modifying/altering/updating an information resource. *See, e.g.*, p. 6, l. 32 – p. 7, l. 1; p. 7, ll. 16-19; p. 9, ll. 3-5 & 13-19; p. 14, ll. 11-22. Independent claims 1, 21, and 26 explicitly indicate that the script itself is executable. Independent claims 11 and 20 explicitly indicate that the script itself is for updating the information resource. Accordingly, Applicants respectfully submit that the static data in *Zigmond's* non-executable attribute/value pairs is not identical to Applicants' script limitation and cannot anticipate any claim that requires a script. Therefore, the Office Action's rejection of independent claims 1, 11, 19, 20, 21, and 26, as being anticipated by *Zigmond* is improper and should be withdrawn.

For at least the foregoing reasons, *Zigmond* fails to anticipate each of the limitations of independent claims 1, 11, 19, 20, 21, and 26. Because all of Applicants'

pending dependent claims incorporate the limitations from at least one of these six independent claims, the rejections of record for the dependent claims are moot. Applicants respectfully submit, therefore, that the pending claims are in condition for allowance. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 14th day of January, 2002.

Respectfully submitted,



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PATENT TRADEMARK OFFICE

In the Specification:

On page 9 of the application, beginning at line 1, replace the paragraph beginning "Receiver 405 displays a" with:

Receiver 405 displays a "Sports Page" Web page 422 along with a broadcast baseball game 424. In accordance with the invention, a portion of web page 422, game score ~~426~~423, for example, can be updated in response to a script received from broadcaster 415. Sports page 422 can thus be synchronized with baseball game 424 without connecting to the Internet. Updating just a portion of sports page 422 advantageously requires less bandwidth than updating the entire page.

On page 12 of the application, beginning at line 27, replace the paragraph beginning "Script triggers include a" with:

Script triggers include a resource locator, a script or a portion of a script, and may also include a human-readable name and an expiration time. The resource locator addresses a particular resource to be enhanced by the trigger. In the example of receiver 405 of Figure 4, script triggers intended to enhance sports page ~~424~~422 would include a resource locator specific to sports page 422.